

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

**MISTY BLANCHETTE PORTER,
M.D.,**

Plaintiff,

v.

**DARTMOUTH-HITCHCOCK
MEDICAL CENTER,
DARTMOUTH-HITCHCOCK
CLINIC, MARY HITCHCOCK
MEMORIAL HOSPITAL, and
DARTMOUTH-HITCHCOCK
HEALTH,**

Defendants.

Docket No. 2:17-CV-194

PLAINTIFF’S PRE-CONFERENCE SUBMISSION

Plaintiff Misty Blanchette Porter, M.D. (“Dr. Porter”) makes this submission in advance of the pre-trial conference scheduled for January 13, 2025, to propose dates by which certain pre-trial documents should be submitted. Counsel for Dr. Porter has shared these proposed dates with counsel for Defendants. Defendants’ counsel advised that he will confer further with Plaintiff’s counsel once he has the opportunity to review the dates with Defendants.

Introduction

In June 2017, defendants Dartmouth-Hitchcock Medical Center, et al. terminated the employment of Misty Blanchette Porter, M.D. (“Dr. Porter”) after more than 21 years of outstanding service. On October 11, 2017, Dr. Porter filed this lawsuit against defendants “alleging discriminatory termination of her employment (a) on account of her disability, in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, the Rehabilitation Act of 1973, 29 U.S.C. § 701 *et seq.*, and the laws of Vermont and New Hampshire; and (b) on account of her ‘whistleblowing’—and other complaints to DHMC of

improper, incompetent, and harmful conduct by physicians in her DHMC division—in violation of New Hampshire law.” *Porter v. Dartmouth-Hitchcock Medical Center*, 92 F. 4th 129, 132 (2d Cir. 2024).

On November 3, 2020, the District Court granted defendants’ motion for summary judgment. On February 6, 2024, the United States Court of Appeals for the Second Circuit reversed and remanded the case for trial on Dr. Porter’s claims for “disability discrimination in the termination of her employment, in violation of the ADA, the Rehabilitation Act, and the laws of New Hampshire and Vermont, and her claims of whistleblower discrimination and wrongful discharge in violation of New Hampshire law.” *Id.* at 169. The case has been set for a jury trial beginning on March 24, 2025.

Status Conference

Plaintiff requests that the status conference accomplish three things: 1) establish a schedule for the filing of motions in limine and other pretrial motions that will not require briefing of the motions in late February or March and will result in decisions far enough in advance of trial so that the parties do not have to make last minute changes in trial strategy; 2) set a deadline for filing of proposed jury instructions; and 3) set a date for the exchange of exhibits and list of witness.

1. Motions in Limine

Plaintiff suggests that motions in limine be submitted by January 31, to allow the Court adequate time to hear argument and decide the motions before the end of the month so that the parties can adjust their trial strategy if necessary.

2. Jury Instructions

Local Rule 51 requires that the jury instructions be filed at least 14 days before trial.

Plaintiff asserts claims of disability discrimination under federal statutes and the laws of Vermont and New Hampshire. She also asserts a whistleblower claim under New Hampshire law. Plaintiff suggests that jury instructions, and any memorandum related to choice of law issues, be submitted no later than March 7.

3. Witness List and Exchange of Exhibits

Plaintiff proposes March 14 as the date for filing and exchange of the list of witnesses and the proposed exhibits.

Dated: January 8, 2025

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